

**GOVERNMENT OF ANDHRA PRADESH
ABSTRACT**

Public Servants - Commercial Taxes Department - Allegation of suppressed turnovers pointed out by V&E Department - Disciplinary Proceedings under rule 20 of APCS (CC&A) Rules, 1991 against Sri K.Venkateswarlu, Assistant Commissioner (Retired) for the irregularity committed while working as Commercial Tax Officer, Kothapet in finalizing the assessment in case of M/s. Ramana Trading Co, Guntur, for the years 1998 -1999, 1999 - 2000, 2000-2001 - Charges framed - Enquiry conducted - Charge proved - Punishment of 5% cut in pension for two years under rule 9 of A.P. Revised Pension Rules, 1980 - Imposed - Orders - Issued.

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REVENUE (VIGILANCE-I) DEPARTMENT

G.O.Rt.No. 187

**Dated:14.2.2014
Read the following:**

1. G.O.Rt.No.1604, Revenue (Vig.I) Dept., Dt.11.8.2008
2. From Sri K.Venkateswarlu, former CTO working as Assistant Commissioner, Commercial Taxes, written statement of defence dt.30.10.2008.
3. G.O.Rt.No.1167, Revenue (Vig.I) Dept., Dt.21.6.6.2010.
4. From the Commissioner of Commercial Taxes, A.P., Hyderabad, Letter No.VI/387/2007, Dt.3.5.2011.
5. Govt. Memo No.2512/Vig.I(1)/2007-6, Revenue(Vig.I) Dept., Dt.22.8.2011
6. From Sri K.Venkateswarlu, Assistant Commissioner, CT (Retired) representation dt.27.10.2011.
7. Govt. Memo.No.2512/Vig.I(1)/2007-9, Dt.26.9.2012.
8. From Sri K.Venkateswarlu, Assistant Commissioner, CT (Retired) representation dt.30.11.2012.
9. Govt. Letter No.2512/Vig.I(1)/2007, DT.30.11.2013 addressed to A.P. Public Service Commission, Hyderabad.
10. From the Secretary, A.P. Public Service Commission, Letter No.2188/RT/3/2013, Dt.7.1.2014

In the reference 1st read above, certain charges have been framed against Sri K.Venkateswarlu, Assistant Commissioner (Retired) for the irregularities committed by him while working as Commercial Tax Officer, Kothapet Circle, Guntur Division in finalizing the assessment in respect of M/s. Ramana Trading Co, Guntur, for the years 1998-99, 1999-2000, 2000-01 with a direction to submit his written statement of defence.

The details of charges are as follows:

Article-I:

That the said Sri K.Venkateswarlu, while functioning as CTO Kothapeta Circle during the period from 27-09-2001 to 23-08-2004, has failed to consider the incriminating material in the case of M/s.Ramana Trading Co, Guntur, for the years 1998-99, 1999-2000, 2000-01, which was available in the assessment record for the year 1999-2000 and finalized assessment of M/s Ramana Trading Co, Guntur for the year 1998-99 on 30-03-2002 without considering the suppressed turnover detected by the V & E Department, due to which there was a loss of revenue of Rs.66,364/- and he also failed to initiate penal action under Section 14(8)(a) of the APGST Act, against the said dealer;

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Article-II

That during the aforesaid period, he failed to initiate penal action against the assessee, M/s Ramana Trading Co, Guntur, under Section 14 (8) (a) of APGST Act even after noticing the incriminating material evidencing suppression of turnover for the year 1999-2000.

Article-III:

That during the aforesaid period, he finalized the assessment for the year 2000-01 in the case of M/s Ramana Trading Co, Guntur, without taking into consideration the incriminating material evidencing suppression of turnover for the years 1998-99, 1999-2000, 2000-01 which was available in the assessment record for the year 1999-2000, due to which a loss of revenue of Rs.1,44,270/- was caused to the Government exchequer and even failed to initiate penal action under Section 14(8)(a) of the APGST Act, against the said dealer.

2. And whereas the Written Statement of Defence submitted by the Charged Officer in the reference 2nd read above is not convincing, a regular Enquiry has been ordered by the Government by appointing the Deputy Commissioner, Commercial Taxes, Guntur as Inquiry Officer in the reference 3rd read above to Enquiry in the matter.

3. And whereas after completion of Enquiry, the Enquiry Report dated 19-04-2011 has been submitted to the Government in the reference 4th read above. In the Enquiry Report the Inquiry Authority has observed that the amounts due to the Government are realized by the successor Commercial Tax Officer of the Charged Officer and as such there is no loss of revenue caused to the Government and held that the charges framed against the Charged Officer as not proved.

4. And whereas the Government after examining the Enquiry Report have deferred with the findings of the Inquiring Authority on the following disagreement factors and communicated the same to the Charged Officer together with a copy of the inquiry report under rule 21 (2) of APCS (CC&A) Rules, 1991, vide reference 5th read above with a direction to submit his representation.

- (i) the Charged Officer failed to consider the suppressed turnover as pointed out by the Vigilance & Enforcement Department which is a lapse on his part;
- (ii) the Charged Officer failed to get the Photostat copies of Vigilance & Enforcement report and club in the assessment file for the year 1998-1999 and to take further action for its re-assessment and to levy the penalty;
- (iii) the loss caused has been realized only after Vigilance & Enforcement Department enquiry, but not in usual course, by the Charged Officer;
- (iv) Initiation of penal action against the assessee M/s. Ramana Trading Company, Guntur even after noticing the incriminating material evidencing suppression of turnover for the year 1999-2000 has not been done by the Charged Officer.

5. And whereas in the reference 6th read above, the Charged Officer has submitted representation stating that the inspection report of Vigilance & Enforcement, dt.08-12-2000

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pertaining to M/s.Ramana Trading Co., was received in the O/o. the Commercial Tax Officer on 15-12-2000. He joined as Commercial Tax Officer, Kothapet Circle on 27-09-2001 and worked there upto 25-08-2004 and he assessed the turnover of the Dealer for the year 1999-2000 to the best of his judgment. The report of the Vigilance & Enforcement for the remaining two periods was not brought to his notice by the staff. However, the turnovers assessed were inclusive of the turnovers found by the Vigilance & Enforcement Department. Later the Dealer took up matter on appeal before the Appellate Deputy Commissioner, Commercial Taxes and finally the Deputy Commissioner, Commercial Taxes levied the penalty on the Dealer and all these survived demands were later collected and there is no loss of revenue to the Government. Regarding failure to initiate penal action against the Dealer the Charged Officer has stated that the Hon'ble Supreme Court of India in the case of Hindustan Steels Vs. State of Orissa (25 STC 211) observed that the initiation of separate penal action may not be fair and just and the infractions pointed out are minor and insignificant in nature and requested to drop further action against him.

6. And whereas the Government have examined the representation of the Charged Officer and observed that the Charged Officer has assessed the suppressed tax turnover for the year 1999-2000 only but failed to initiate Penal Action as required under section 14 (8) of the APGST Act. With regard to the assessment orders for the year 2000-2001 also the Charged Officer has not taken into account the incriminating material available in the assessment file of 1999-2000 and also no penal action was taken by him as required under the provisions of the above said Act. Hence, the charges relating to his failure to initiate penal action against the Dealer under section 14 (8) of the APGST Act stand substantiated against him and the representation submitted by him is not convincing. Thus there is lapse on the part of the Charged Officer in discharging his duties.

7. And whereas the Government, after careful consideration of the matter, have provisionally decided to impose a punishment of 5% (five percent) cut in the pension permanently under rule 9 of A.P. Revised Pension Rules, 1980 on Sri K.Venkateswarlu, former Commercial Tax Officer and Assistant Commissioner, Commercial Taxes (Retd.). Accordingly the above decision has been communicated to the Charged Officer vide reference 7th read above with a direction to submit his representation on the provisional decision.

8. And whereas in the reference 8th read above, Sri K.Venkateswarlu, former Commercial Tax Officer and Assistant Commissioner, Commercial Taxes (Retd.) has submitted representation while re-iterating the contents has stated that the assessment for the remaining two years, i.e., for 1998-99 and 2000-01 was also made by him on 30-03-2002 and 31-03-2004 to the best of his judgment and raised a demand of Rs.9,99,099/- and Rs.1,36,310/- respectively, though the Vigilance & Enforcement reports for the said periods were not brought to his notice. Subsequently the same was re-assessed by his successor Commercial Tax Officer bringing the suppressed turnover pointed out by the Vigilance and Enforcement to assessment and raised the demand for all the three years at Rs.4,74,814/- against the said dealer.

9. The Charged Officer further represented that when the matter was taken in appeal before the Appellate Authority, i.e., Appellate Deputy Commissioner, Commercial Taxes, Guntur under Section 19 of APGST Act, the tax payable by the dealer was reduced to Rs.1,01,287/- even after taking into account the suppressed turnover as against a demand of

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Rs.4,74,814/- and the same was realized and as such no revenue loss was caused to the Government. Out of final tax imposed by the Appellate Authority, Rs.60,287/- was originally assessed by him for the year 1999-2000 taking into consideration of the Inspection Material sent by the Vigilance and Enforcement Wing, Guntur. The Charged Officer has finally represented that the provisional decision to impose punishment of 5% cut in pension permanently is disproportionate to the charge levelled against him, though the presumptive loss of revenue would be around Rs.40,000/- only, which was also subsequently levied and collected by his successors.

10. And whereas the Government after careful examination of the matter and also taking into consideration of the fact that no loss of revenue is caused to the Government exchequer, it has been decided to impose a penalty of 5% cut in pension for two years on Sri K.Venkateswarlu, former Commercial Tax Officer and Assistant Commissioner, Commercial Taxes (Retd.,) under rule 9 of A.P. Revised Pension Rules, 1980 as against the provisional decision to impose punishment of 5% cut in the pension permanently. Accordingly, in the reference 9th read above, proposal has been sent to the A.P. Public Service Commission for concurrence of the Commission. In the reference 10th read above, the Commission has agreed with the punishment to be imposed on the Charged Officer.

11. Now, therefore, in exercise of the powers conferred under rule 9 of A.P. Revised Pension Rules, 1980 r/w rule 20 of APCS (CCA) Rules, 1991, Government hereby impose the punishment of 5 % cut in pension for a period of two years on Sri K.Venkateswarlu, former Commercial Tax Officer and Assistant Commissioner, (Commercial Taxes) (Retd.,). A copy of the advice of the A.P. P.S.C, dated 07-01-2014 is herewith furnished to the individual as required under rule 23 of APCS (CC&A) Rules, 1991.

12. The Commissioner of Commercial Taxes, A.P, Hyderabad shall take further action accordingly.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

S.P.SINGH
PRINCIPAL SECRETARY TO GOVERNMENT

To
Sri K.Venkateswarlu, Assistant Commissioner, (CT) (Retd.,) (we)
through the Commissioner of Commercial Taxes, A.P, Hyderabad.
The Commissioner of Commercial Taxes, A.P, Hyderabad
(with a request to serve the G.O on the individual and send the served copy with dated signature to Government)

Copy to:

The Secretary to V C, A.P. Vigilance Commission, Hyderabad.
The Secretary, A.P. Public Service Commission, Hyderabad.
The Accountant General, AP, Hyderabad.
The Revenue (CT.I) Department.
PS to Prl. Secretary to Government, Revenue Department.

//Forwarded :: By Order//

SECTION OFFICER.